

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

<b>(1) DEPARTMENT</b> Planning and Building	<b>(2) MEETING DATE</b> 5/12/2015	<b>(3) CONTACT/PHONE</b> Rob Fitzroy, Environmental Resource Specialist / (805) 781-5179	
<b>(4) SUBJECT</b> Hearing to consider an appeal by Las Pilitas Resources, LLC of the Planning Commission's decision to deny its application for a Conditional Use Permit and Reclamation Plan for the Las Pilitas Quarry (DRC2009-00025) located at 6660 Calf Canyon Highway near the community of Santa Margarita. District 5.			
<b>(5) RECOMMENDED ACTION</b> It is recommended that the Board:  1. Hold the public hearing on the appeal of the Planning Commission's decision to deny the proposed project as set forth in the attached Exhibits and Staff Report.  2. Adopt and instruct the chairman to sign the resolution to:  a. Deny the appeal and affirm the Planning Commission's decision to deny the application of Las Pilitas Resources, LLC for a Conditional Use Permit and Reclamation Plan for the Las Pilitas Quarry (DRC2009-00025) based on the findings in Exhibit A.			
<b>(6) FUNDING SOURCE(S)</b> Appeal Fee and Budget	<b>(7) CURRENT YEAR FINANCIAL IMPACT</b> \$0.00	<b>(8) ANNUAL FINANCIAL IMPACT</b> \$0.00	<b>(9) BUDGETED?</b> Yes
<b>(10) AGENDA PLACEMENT</b> <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>360 minutes</u> ) <input type="checkbox"/> Board Business (Time Est. <u>    </u> )			
<b>(11) EXECUTED DOCUMENTS</b> <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
<b>(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)</b> N/A		<b>(13) BUDGET ADJUSTMENT REQUIRED?</b> BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
<b>(14) LOCATION MAP</b> Attached	<b>(15) BUSINESS IMPACT STATEMENT?</b> N/A	<b>(16) AGENDA ITEM HISTORY</b> <input checked="" type="checkbox"/> N/A    Date: <u>                    </u>	
<b>(17) ADMINISTRATIVE OFFICE REVIEW</b> Lisa Howe			
<b>(18) SUPERVISOR DISTRICT(S)</b> District 5			

## County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Rob Fitzroy, Environmental Resource Specialist

VIA: Ellen Carroll, Environmental Coordinator / Planning Manager

DATE: 5/12/2015

SUBJECT: Hearing to consider an appeal by Las Pilitas Resources, LLC of the Planning Commission's decision to deny its application for a Conditional Use Permit and Reclamation Plan for the Las Pilitas Quarry (DRC2009-00025) located at 6660 Calf Canyon Highway near the community of Santa Margarita. District 5.

### **RECOMMENDATION**

It is recommended that the Board:

1. Hold the public hearing on the appeal of the Planning Commission's decision to deny the proposed project as set forth in the attached Exhibits and Staff report.
2. Adopt and instruct the chairman to sign the resolution to:
  - a. Deny the appeal and affirm the Planning Commission's decision to deny the application of Las Pilitas Resources, LLC for a Conditional Use Permit and Reclamation Plan for the Las Pilitas Quarry (DRC2009-00025) based on the findings in Exhibit A.

### **DISCUSSION**

### **SUMMARY**

#### **Project Description - Summary**

The project site is approximately three miles northeast of Santa Margarita on the north side of State Route 58 just east of the Salinas River at 6660 Calf Canyon Highway. The project applicant has requested approval of a quarry for the extraction of up to 500,000 tons per year of aggregate material from the project site. Aggregate products that will be produced include: rip rap, drain rock, landscape wall rock, decorative rock, decomposed granite for landscaping applications (trail pathways, etc.), and non-expansive fill material. The project does not include the processing facilities required to produce Portland Cement Concrete (PCC) and Asphaltic Concrete (AC), both of which are generally referred to herein as Concrete Grade Aggregate (CGA). The project would occupy 41-acres of the 234-acre property. The project site is designated as Rural Lands. The site is located in the EX1 Combining Designation area, which is an 8,000 acre area of the county that the California Department of Conservation's Division of Mines and Geology has classified as containing or being highly likely to contain significant mineral deposits.

#### **Community Concerns - Summary**

Significant community concern has been expressed throughout the various phases of project processing, particularly within the public comment period for the Environmental Impacts Report, and these concerns include land use incompatibilities adjacent to the project site as well as within the community of Santa Margarita, truck traffic, noise from truck traffic and quarry operations, visual impacts, and increased number of trucks trips along the haul route that would occur through the town of Santa Margarita. In addition, the increase in truck traffic generated from the proposed quarry would compromise the desired rural character of the community of Santa Margarita, as expressed in the adopted Santa Margarita Design Plan.

### **Land Use Conflicts - Summary**

Key land use compatibility issues with the project are related to the number of truck trips generated by the project and the proposed haul route, which travels through Santa Margarita adjacent to residential land uses, Santa Margarita Elementary School, and the downtown core of the community. There are many variables when estimating truck trips for the proposed project. Because the applicant has requested a 500,000 tons/year limit, it is reasonably foreseeable that 273 truck trips per day could be generated on average.

The 273 truck trips of the project would represent more than a doubling of existing truck traffic along Highway 58 through Santa Margarita. It is important to note this is an average, truck trip rates could be higher or lower based on demand for aggregate at any given time or day throughout a given year.

The following truck trip rates per hour and minute are provided (assumes 11-hour working day as proposed by applicant, numbers are averaged throughout the day):

- **273 trucks** (proposed) = 1 truck trip every 2.5 minutes or 25 truck trips per hour
- **198 trucks** (without recycling component) = 1 truck trip every 3.3 minutes or 18 truck trips per hour
- **137 trucks** (50% reduction) = 1 truck trip every 4.6 minutes or 13 truck trips per hour
- **68 trucks** (75% reduction) = 1 truck trip every 8.5 minutes or 7 truck trips per hour

Land use compatibility issues associated with the project are primarily related to the 273 truck trips generated by the project along the proposed haul route, which would result in the exposure of sensitive receptors to noise in excess of County standards, and land use compatibility conflicts between truck traffic, bicyclists, pedestrians and school children.

### **Need for Aggregate - Summary**

While State Geologist Special Report 215 identifies a need for PCC and AC grade aggregate in the San Luis Obispo / Santa Barbara County production/consumption region, the proposed project will not include the processing facilities necessary to produce PCC and AC grade aggregate. Thus, the project would not contribute to the identified need for Concrete Grade Aggregate.

The two existing major suppliers of Concrete Grade Aggregate (Santa Margarita Quarry (Hanson) and Rocky Canyon located in the same EX1 designated area as the proposed project), as well as Sisquoc Rock Plant (located in the San Luis Obispo / Santa Barbara County production/consumption region), when combined, have the potential to meet future demand of the San Luis Obispo / Santa Barbara County production/consumption region with existing permitted reserves and unpermitted aggregate resources available at these locations. In addition, the Santa Margarita Quarry expansion was approved on April 30, 2015 by the Planning Commission, which would further increase the availability of Concrete Grade Aggregate within the San Luis Obispo / Santa Barbara County production/consumption region.

Special Report 215 recognized that while certain resources are not yet permitted within the Rocky Canyon and Sisquoc Specific Plans areas, the Rocky Canyon and Sisquoc Specific Plans "represent significant additions" to mineral resource policies because they include "the two largest PCC-grade aggregate resources in the San Luis Obispo / Santa Barbara County production/consumption region".

### **Project Denial - Summary**

The Planning and Building Department Staff Report for the project recommended denial of the project because the project would be inconsistent with the Land Use Ordinance and various goals and policies of the General Plan, and because the project would result in seven (7) Class I, significant and unavoidable impacts as disclosed in the Environmental Impact Report. In addition, there were insufficient economic, social, technological, or other benefits of the project to override its significant unavoidable environmental impacts, particularly because the need for aggregate can be met by existing mines through permitted reserves and unpermitted resources.

The Planning Commission held three hearings on this item on December 11, 2014, January 8, 2015, and February 5, 2015. Extensive public comment was received and significant concerns were again raised by the public. After due consideration of the project, receipt of extensive public testimony, evaluation of the Environmental Impact Report, on February 5, 2015, the Planning Commission made the decision to deny the proposed project. In summary, the Planning Commission denied the project for the following reasons:

1. The project was found to be inconsistent with several goals and policies of the County Conservation Open Space Element and the Noise Element.
2. The project was found to be inconsistent with Title 22, the Land Use Ordinance. Specifically, Section 22.10.120 (Noise Standards) and Section 22.36.040(E) (Surface Mining and Reclamation).
3. The project would be detrimental to the health, safety and welfare of the public and the community of Santa Margarita due to traffic, noise and associated land use incompatibilities.
4. The project was found to be incompatible with the character of the immediate neighborhood and the community of Santa Margarita and its orderly development.
5. The project would generate traffic that would result in land use incompatibilities with pedestrians, bicyclists, school children and the community as a whole.
6. The project would result in seven (7) significant and unavoidable impacts related to aesthetics, noise and traffic and discussed in the Final EIR.
7. There was a lack of specific overriding economic, legal, social, technological, or other benefits of the project that outweigh the significant effects on the environment, as would be required to approve the project pursuant to Public Resources Code section 21081.
8. Denial of the proposed project does not preclude or set precedence for future mining projects within the EX1 combining designation area. The project was evaluated independently based on the currently proposed project characteristics. Future mine projects in this area would be evaluated based on proposed project characteristics at that time.

### **Staff Comments – Summary**

The EX1 Combining Designation is an 8,000-acre area which currently contains two large aggregate quarries. Staff recognizes that significant community concern has been expressed regarding the impacts related to the location of the proposed quarry and the truck haul route through the community of Santa Margarita. Denial of the proposed project does not preclude or set precedence for future mining projects within the EX1 combining designation area. Each project requires independent evaluation. The proposed project was evaluated independently based on the currently proposed project characteristics, including the proposed site and haul route. The Planning Commission denied the project, in part, based on the land use compatibility conflicts that would occur, the seven (7) significant and unavoidable impacts that would occur, and because there is a lack of evidence of sufficient economic, social, technological or regional benefit for overriding considerations of those impacts. The project is located in close proximity to existing sensitive receptors and, importantly, has proposed a haul route that would travel through an existing community and result in land use compatibility conflicts.

As expressed in a letter on March 23, 2011 to the project applicant from the Planning and Building Department (Attachment 6), because the Las Pilitas Quarry is a controversial project with potential for significant environmental impacts, even with completion of an EIR, it is uncertain whether the use permit will be approved or denied.

### **END SUMMARY**

#### **Background**

An application for a Conditional Use Permit and Reclamation Plan for a new surface mine was submitted to the Department of Planning and Building (Department) in October 2009. The project was accepted for processing in June of 2010. Upon preparation of the Initial Study, the Department determined that the project would have the potential to result in significant and unavoidable impacts to the environment. Therefore an Environmental Impact Report (EIR) was prepared.

The Draft Environmental Impact Report (EIR) was released for public comment on April 4, 2013 and the public comment period closed on June 5, 2013. The Department held a public workshop during the public comment period (on April 25, 2013) and upon the completion of the comment period received more than 200 comment letters with approximately 800 individual comments on the Draft EIR. The Department reviewed all comments on the Draft EIR and has provided response to these comments which are contained in the Final EIR dated November 2014. The Final EIR concluded that the proposed project would result in seven (7) significant and unavoidable impacts (Class I impacts) that relate to traffic, noise and aesthetics. The Final EIR is available at the County Clerk-Recorder Office and is available online at:

[http://www.slocounty.ca.gov/planning/environmental/EnvironmentalNotices/Oster\\_Las\\_Pilitas\\_Quarry.htm](http://www.slocounty.ca.gov/planning/environmental/EnvironmentalNotices/Oster_Las_Pilitas_Quarry.htm)

After three hearings on December 11, 2014, January 8, 2015, and February 5, 2015, the Planning Commission voted to deny the project on February 5, 2015. The Planning Commission received extensive public testimony and significant

concerns were expressed by the public. The Planning Commission determined that it could not make applicable Conditional Use Permit (CUP) findings necessary to support the proposed project because the project was determined to be inconsistent with the County General Plan and Land Use Ordinance, and there were insufficient economic, social, technological, or other benefits of the project to override its significant unavoidable environmental impacts. The Planning Commission Staff Report is included herein as Attachment 2.

The applicant, Las Pilitas Resources, LLC, subsequently filed an appeal to this decision on February 17, 2015. This appeal letter is included herein as Attachment 3. Subsequent to submittal of the February 17, 2015 appeal, the appellant / applicant submitted additional appeal information on April 9, 2015. This information is included herein as Attachment 4. The Department has addressed each of these items below.

### Project Description

The proposed Las Pilitas Quarry surface mine would occupy approximately 41 acres of a 234-acre property located approximately three miles northeast of Santa Margarita on the north side of State Route 58 just east of the Salinas River. The site is located in the EX1 Combining Designation area, which is an 8,000 acre area of the county that the California Department of Conservation's Division of Mines and Geology has classified as containing or being highly likely to contain significant mineral deposits.

The applicant has requested the extraction of up to 500,000 tons per year of aggregate material from the project site. Aggregate products that will be produced include: rip rap, drain rock, landscape wall rock, decorative rock, decomposed granite for landscaping applications (trail pathways, etc.), and non-expansive fill material. The project does not include the processing facilities required to produce Portland cement concrete (PCC) and asphaltic concrete (AC), which is also referred to as Concrete Grade Aggregate. Depending on market conditions, the life of the quarry is estimated to range from 25 to 58 years and would be implemented in three (3) phases. The Reclamation Plan proposes to cover and revegetate slopes in phases as the quarry proceeds.

If the full production rate as proposed by the applicant is achieved (500,000 tons / year), the average daily truck traffic associated with the project would be 273 truck trips per day. The 273 truck trips per day average assumes 250 working days per year, 20.2 tons per load and includes the proposed recycling component. Traffic calculations are discussed in detail further below.

The full project description can be found in the Final EIR, Section 2.0 *Project Description*.

### Land Use Compatibility and Environmental Review

Land use compatibility conflicts of a project are, in part, associated with the impacts identified in the EIR. Land use compatibility conflicts also arise when the impacts of a project are compared to and evaluated against existing goals and policies of the General Plan and Community Plans, as well as impacts as expressed by community concern. The land use compatibility conflicts of the project are discussed and summarized below. It is important to note that certain conflicts can, in part, be mitigated to a less than significant level; however, in some instances not all impacts can be mitigated. The EIR concluded that the proposed project would result in seven (7) significant and unavoidable (Class I) impacts. Issue areas with Class I impacts include Transportation and Circulation, Noise and Aesthetics and are also summarized below.

### Community Compatibility and Truck Traffic

The proposed haul route of the project will pass through the residential neighborhood along Estrada Avenue and through downtown Santa Margarita along State Route 58. The total average of all daily traffic along Highway 58 through Santa Margarita is 7,200 vehicles (based on Caltrans data), of that total approximately 3% is heavy trucks, which is approximately 216 trucks per day. The project would generate an average of 273 truck trips per day, and result in more than a doubling of existing truck traffic. This would compromise the small town, rural character of this historic community. Because the estimated 273 truck trips are an average, it is possible that the project could generate more than 273 truck trips per day during peak periods.

The increase in truck traffic generated from the proposed quarry would compromise the desired rural character of the community of Santa Margarita, as expressed in the adopted Santa Margarita Design Plan. The additional truck traffic would be inconsistent with community preferences, which are presented in the Santa Margarita Community Plan and Santa Margarita Design Plan, including the Design Plan, Vision for Santa Margarita (I-B) and Goals (C). Although some identified traffic impacts can be mitigated, the passage of this volume of heavy trucks through the community of Santa Margarita is inconsistent with the goals of the design plan. These Vision statement and Goals generally call for an

increase in the pedestrian friendly nature of downtown including slowing traffic, narrowing roadways, and increasing pedestrian crossings. The increase in trucks through the downtown and accompanying noise and pollution is not consistent with these Vision and Goals. These concerns were identified in comments received during the scoping period for this project EIR as well as comments received during the public comment period for the Draft EIR.

In addition to general traffic related impacts, the project would result in land use compatibility conflicts between truck traffic, bicyclists, pedestrians and school children. The project will contribute an average of approximately 273 truck trips per day and 35 peak hour truck trips through the downtown portion of the community of Santa Margarita, and will contribute towards potential conflicts with pedestrian movements across El Camino Real at Encina Avenue. Children walking to and from school regularly cross SR 58 via a designated crossing at the intersection of SR 58 and H Street.

Based on 273 truck trips per day and an 11 hour working day (as proposed by the applicant), the project would generate 25 truck trips through town per hour or a single truck trip approximately 2.5 minutes.

Further, Highway 58 is a popular route with cyclists, particularly the segment between El Camino and Pozo Road. Cyclists and other users would be required to share SR 58 with the truck traffic generated by the proposed project. There is no dedicated bike lane on SR 58, which leaves little room for bicyclists and truck traffic to share the road. Trucks will need to maintain the appropriate separation as required by State law (3-foot rule). The limited room to accommodate large trucks and cyclists would result in a slowing of traffic as trucks wait for an opportunity to pass with a safe buffer from other users. This will result in conflicts between user groups.

#### Truck Traffic Calculations and Assumptions

There are many variables when estimating truck trips for the proposed project. Because the applicant has requested a 500,000 tons/year limit, it is reasonably foreseeable that 273 truck trips per day could be generated on average. It is important to note this is an average, truck trip rates could be higher or lower based on demand for aggregate at any given time or day throughout a given year. Thus, other impacts associated with truck traffic could also be greater or lesser, including but not limited to air quality impacts and noise impacts.

The following information is intended to explain how an average of 273 truck trips per day was calculated.

- **500,000 tons / year = 198 truck trips / day**
  - ⇒ 1 truck trip is a single trip
  - ⇒ Roundtrip = 2 truck trips
  - ⇒ 500,000 tons / year = 2,000 tons / day (assuming 250 working days / year)
  - ⇒ 2,000 tons ÷ 20.2 tons / truck = 99 truck loads
  - ⇒ 99 trucks loads X 2 = 198 truck trips / day (entering and leaving the site)
- **1,500 tons / day recycling = 75 truck loads**
  - ⇒ 1,500 tons ÷ 20.2 tons / truck = 75 truck loads
  - ⇒ 75 truck loads X 2 = 150 truck trips / day
  - ⇒ Assumed 50% of trucks would leave with a full load
  - ⇒ = 75 truck trips / day
- **10 round trips / day employees**

In summary, the project would generate 198 *average* truck trips / day for aggregate, 75 *average* truck trips / day for recycling, and 10 employee trips / day for a total of 283 trips / day (haul trucks & employees).

The calculations assume a double trailer truck would hold 20.2 tons per truck load, though it is possible that a truck could hold up to 23 tons (assuming a full covered double load) when the truck bed is covered. However, it is unlikely that all trucks would be fully loaded and covered. Therefore, to be conservative it was assumed that trucks may operate uncovered and thus hold only 20.2 tons (which allows for 3 feet of freeboard within the truck bed to ensure that materials do not exit the truck when driving as required by law). It is also possible that not all trucks would have double trailers and could be single trailer trucks, which would further justify the conservative estimate of 20.2 tons per load, and the resulting estimate of 273 truck trips per day. If it were to be assumed that all trucks would be fully loaded with 23 tons per truck trip and all trucks would be double trailers, using the methodology above, the project would generate 240 truck trips on average or 33 fewer truck trips.

For informational purposes, the following truck trip rates per hour and minute are provided (assumes 11-hour working day

as proposed by applicant):

- **273 trucks** (proposed) = 1 truck trip every 2.5 minutes or 25 truck trips per hour
- **198 trucks** (without recycling component) = 1 truck trip every 3.3 minutes or 18 truck trips per hour
- **137 trucks** (50% reduction) = 1 truck trip every 4.6 minutes or 13 truck trips per hour
- **68 trucks** (75% reduction) = 1 truck trip every 8.5 minutes or 7 truck trips per hour

#### **Traffic and Circulation Roadway Impacts Identified in EIR**

The Final EIR concluded that roads along haul route have the capacity in terms of Level of Service (LOS) to accommodate trips generated by project with mitigation (under existing conditions plus project). The project would contribute to delay at Estrada/El Camino intersection, but that impact can be mitigated through traffic improvements. The project would however result in significant and unavoidable impacts to cumulative traffic conditions in 2030 because it is unknown whether needed improvements would be implemented by Caltrans and if adequate funding would be available at that time. While LOS would be acceptable with operation of the project and other road impacts can be mitigated, LOS is not an indicator of land use compatibility and the truck trips generated by the project have the potential to be disruptive to and incompatible with the community character as discussed further below.

#### **Community Compatibility and Noise Impacts**

The project would generate truck traffic that would result in a significant increase in noise within the Community of Santa Margarita based on County noise standards. This would increase ambient noise levels in the community and expose sensitive receptors to noise levels near and in excess of the maximum allowable transportation based noise thresholds (depending on the location of the sensitive receptor). Haul trucks produce particularly low frequencies combined with high pitched noises from braking, and acceleration and deceleration. In addition, the community currently has relatively low traffic volumes. Thus, the increase in truck trip noise would not be compatible with the rural, quiet character of the community. In addition, many comments letters from the public have expressed concern regarding the noise impacts of the project associated with the proposed truck trips and the related noise impacts within the community of Santa Margarita.

The proposed project would expose residents to blasting and operation noise in an otherwise rural, quiet and natural setting. Residential land uses, on lands designated as Rural Residential, are located immediately adjacent to the project site and no topographic buffer or sufficient distance exists to attenuate these impacts as with other existing mines in the same EX-1 Combining Designation. This would result in regular disturbances to nearby sensitive receptors<sup>1</sup>. Such nuisance noises, which would exceed County noise standards, would result in excessive noise levels which are detrimental to the public health, welfare and safety and contrary to the public interest. Excessive noise can: interfere with sleep, communication, relaxation and full enjoyment of one's property; contribute to hearing impairment and a wide range of adverse physiological stress conditions; and adversely affect the value of real property. While the impacts can be partially mitigated, impacts related to noise at the project site have been determined to be significant and would be incompatible with surrounding uses.

#### **Noise Impacts Identified in EIR**

The Final EIR concluded that the proposed project would result in significant and unavoidable impacts related to truck traffic noise within the community, quarry operation noise and associated impacts to nearby sensitive receptors (residences), blasting noise and associated impacts to nearby sensitive receptors, and cumulative truck traffic noise within the community. These noise impacts would expose sensitive receptors to levels of noise that exceed County standards. The EIR concluded that truck traffic noise, blasting noise and operational noise cannot be mitigated as there are no feasible measures to implement that would reduce noise levels to acceptable levels.

#### **Aesthetics and Visual Resources**

The Final EIR concluded that the proposed project would permanently alter the existing visual character of the project site and surrounding area from public view along Highway 58. The project would be visually prominent in a relatively rural and natural setting. The project is located in a transition zone between the semi-rural Santa Margarita area and the rural and steeply sloped oak woodland and chaparral covered hillsides adjacent to the Salinas River corridor. There are numerous scattered residences within the vicinity of the proposed project site. Nearby residences would have views of the project

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<sup>1</sup> Sensitive receptors are defined by the Noise Element as residences, schools, nursing homes, churches, public assembly areas, libraries, hotels, outdoor recreation areas and offices.

site, in addition to travelers utilizing SR 58. The project would result in significant disturbance to the project site and change the natural setting and visual character of the area. It is understood that Highway 58 is not a designated scenic highway, although it may be designated in the future by the Board of Supervisors, as envisioned in the COSE. Moreover, there is an existing mine (Santa Margarita Quarry – Hanson) nearby that is visible from Highway 58. This proposed project would contribute to those impacted views. However, from other views, particularly westbound view, this project would dominate the currently natural view. The project would permanently alter the existing visual character of the project site and surrounding area from its existing condition. While a Reclamation Plan is proposed, it would be decades until it would be implemented. Thus, impacts were determined to be significant and unavoidable.

### **Planning Commission Decision for Denial**

The Planning Commission held three hearings on this item on December 11, 2014, January 8, 2015, and February 5, 2015. The proceedings were televised and recorded and can be viewed in their entirety online. The complete Staff Report, supplemental materials, staff presentations, and correspondence are also available online. The online link to this information is <http://www.slocounty.ca.gov/planning/meetings.htm>. All public testimony, staff presentations, supplemental information, Planning Commission deliberations and actions of these hearings are hereby entered into the record for full consideration by the Board of Supervisors.

On February 5, 2015, the Planning Commission voted to deny the proposed project. The full findings for denial can be found in Exhibit A of the Planning Commission Staff report (Attachment 2). These Findings have been brought forward and are included herein as Exhibit A to this Staff Report. In summary, the Planning Commission denied the project for the following reasons:

1. The project was found to be inconsistent with several goals and policies of the County General Plan.
2. The project was found to be inconsistent with Title 22, the Land Use Ordinance.
3. The project would be detrimental to the health, safety and welfare of the public and the community of Santa Margarita.
4. The project was found to be incompatible with the character of the immediate neighborhood and the community of Santa Margarita and its orderly development.
5. The project would generate traffic that would result in land use incompatibilities with pedestrians, bicyclists, school children and the community as a whole.
6. The project would result in seven (7) significant and unavoidable impacts related to aesthetics, noise and traffic and discussed in the Final EIR.
7. There was a lack of specific overriding economic, legal, social, technological, or other benefits of the project that outweigh the significant effects on the environment, as would be required to approve the project pursuant to Public Resources Code section 21081.
8. Denial of the proposed project does not preclude or set precedence for future mining projects within the EX1 combining designation area. The project was evaluated independently based on the currently proposed project characteristics. Future mine projects in this area would be evaluated based on proposed project characteristics at that time.

### **Other Considerations of the Planning Commission**

Prior to the decision to deny the project, the Planning Commission also considered information and PowerPoint presentations provided by County Counsel and Planning Staff in regards to aggregate for the region and applicable mineral resource regulations. Specifically, County Counsel provided a PowerPoint presentation on the Surface Mining and Reclamation Act and the designation process by which the State Mining and Geology Board (SMGB) has the authority to designate certain mineral deposits of regional or statewide significance. Staff also presented the report prepared by the State Geologist, Special Report 215, which discusses the San Luis Obispo / Santa Barbara County production/consumption region for aggregate.

### **State Mining and Geology Board Designation Process**

The SMGB has the authority to designate certain mineral resource deposits as “regionally” or of “statewide” significance. The Planning Commission was informed by County Counsel and Staff that the SMGB is in the process of considering and potentially (at that time) designating the subject project site, and surrounding mineral deposits, as a “regionally significant”. The Planning Commission, in its decision to deny the project, considered all of this information and the importance of the subject mineral resource as disclosed in the SMGB report, although not technically required to do so by law at the time of the hearing.



Since the February 5, 2015 Planning Commission hearing, the SMGB has completed the final regulatory step required to designate certain aggregate resources in the San Luis Obispo-Santa Barbara Production Consumption Region, including the subject EX-1 Combining Designation area, as being of “regional significance”. This designation was approved by the Office of Administrative Law on March 30, 2015, and the designation will become effective on July 1, 2015. As a part of this action, the SMGB determined that the designation action was exempt from CEQA and no environmental review was performed. The SMGB found that, if and when mine projects are proposed in the area of “regional significance”, such projects would be subject to CEQA and would undergo the appropriate environmental review based on the proposed project at that time.

Designation of the area as being of “regional significance” does not entitle or guarantee approval of a mineral resource project. When considering a mine project in an area designated as regionally significant, the law requires that a Lead Agency’s decision is in “accordance with the Lead Agency’s mineral resource management policies” and, “in balancing mineral values against alternative land uses, considers the importance of these minerals to their market region as a whole and not just their importance to the lead agency’s area of jurisdiction” (PRC §2763(a)). Although the designation was not approved nor in effect at the time of the Planning Commission decision, nor is it yet in effect at the date of this appeal hearing, the Planning Commission was informed and did consider the importance of the resource to the area and the region and balanced that decision against other considerations.

Projects within areas designated by SMGB as regionally significant can be appealed to the SMGB. However, the only authority the SMGB has relative to local agency decisions to approve or deny such a project is to review the decisions for substantial evidence and to remand the decision with a recommendation that the local agency re-consider the action. The SMGB does not have the authority to override local agency land-use authority in any way.

#### Special Report 215 - Aggregate Supply and Demand

State Geologist Special Report 215 (SR 215) evaluated demand for PCC and AC grade (concrete grade) aggregate in San Luis Obispo / Santa Barbara County production/consumption region over the next 50 years. SR 215 concluded that PCC and AC grade aggregate reserves may be depleted by 2026; however, the proposed project does not include the necessary processing facilities to produce PCC and AC grade aggregate. The Planning Commission received a Staff presentation on SR 215 and this issue. SR 215 evaluated the availability of PCC and AC grade (concrete grade) aggregate in the San Luis Obispo / Santa Barbara County production/consumption region as it is the most “scarce and valuable” aggregate resource because it is used primarily for construction (see Attachment 7). While SR 215 has identified a need for PCC and AC grade aggregate in San Luis Obispo / Santa Barbara County production/consumption region through 2026, the proposed project would not produce PCC and AC grade aggregate.

#### Existing PCC and AC Aggregate Reserves and Resources

The Planning Commission was informed by staff that the two major suppliers of PCC and AC grade aggregate (Santa Margarita Quarry (a.k.a. Hanson) and Rocky Canyon located in the same EX1 designated area as the proposed project), as well as Sisquoc Rock Plant (located in the San Luis Obispo / Santa Barbara County production/consumption region), when combined, have the potential to meet future demand of the San Luis Obispo / Santa Barbara County production/consumption region with existing permitted reserves and unpermitted aggregate resources available at these locations<sup>2</sup>. Moreover, SR 215 recognized that while certain resources are not yet permitted within the Rocky Canyon and Sisquoc Specific Plans areas, the Rocky Canyon and Sisquoc Specific Plans “represent significant additions” to mineral resources because they include “the two largest PCC-grade aggregate resources in the San Luis Obispo / Santa Barbara County production/consumption region”.

More specifically, SR 215 identified a need of 137 million tons of PCC / AC grade aggregate, and 263 million tons of all types of aggregate over the next 50 years. It has been estimated that aggregate reserves and resources at existing mines within the San Luis Obispo / Santa Barbara County production/consumption region, including Rocky Canyon, Santa Margarita Quarry (Hanson), and Sisquoc Rock Plant have the potential to provide 233 to 302 million tons. However, to meet future demand, subsequent phases of the Rocky Canyon and Sisquoc Specific Plans would need to be approved. Rocky Canyon and Sisquoc Rock Plant both have adopted specific plans that identify specific areas for future expansion, subject to subsequent permitting. The Santa Margarita Quarry recently received an approval for expansion of its mining boundaries, which will contribute to meeting the regions need for PCC / AC grade aggregate (Concrete Grade Aggregate).

#### Appeal Letter Received from Las Pilitas Resources, LLC

<sup>2</sup> Aggregate reserves are aggregate deposits that have been determined to be acceptable for commercial use and have been issued a permit to mine. Aggregate resources include reserves as well as all potentially usable aggregate materials that may be mined in the future, but for which no mining permit has been granted.

The project applicant (Las Pilitas Resources, LLC), which in this case is also the appellant, submitted an appeal of the Planning Commission's decision to deny the proposed project on February 17, 2015 (Attachment 3). The appeal letter included the following paraphrased statements:

1. The denial findings by the Planning Commission were not supported by substantial evidence and were contradicted by other cases made in the record.
2. The findings amounted to unsubstantiated conjecture and are based on inaccuracies and misunderstandings about the project.
3. The Planning Commission erred by not considering the importance of this aggregate resource to the region as required by state law.
4. The Planning Commission did not consider other findings specific to mineral resources, which alter the traditional CUP findings for projects such as this.

Subsequent to the receipt of the original appeal letter, the appellant submitted additional appeal arguments with supporting information on April 9, 2015 (Attachment 4). The appellant raises various concerns and primarily challenges the Findings for Denial as contained in Exhibit A of the Planning Commission Staff Report. Staff responses to these concerns are provided further below.

#### **Staff Response to February 17, 2015 Appeal Letter**

**Appellant – 1:** (February 17, 2015 Appeal Letter) The denial findings by the Planning Commission were not supported by substantial evidence and were contradicted by other facts made in the record.

**Staff Response – 1:** *It is the Department's position that the denial findings made by the Planning Commission were supported by substantial evidence and that information presented to the Planning Commission and the public was accurate. The evidence and supporting information presented to the Planning Commission included the Final EIR, public testimony, Staff presentations, and Staff analysis as contained in the Staff Report (Attachment 2). The Staff Report provided to the Planning Commission contained a thorough analysis of a variety of issues including General Plan and Land Use Ordinance consistency, environmental impacts, and land use compatibility impacts. Information provided and presented to the Planning Commission was carefully reviewed by Department Staff to ensure accuracy. The Draft EIR, which in part provided evidence supporting denial, was released for public review and over 200 letters were received. The Final EIR contains responses to all these comment letters, which resulted in over 800 individual responses.*

*The Planning Commission, in part, based their denial upon the land use compatibility conflicts that would accompany the project because those conflicts would be detrimental to the health, safety and welfare of the public and community. The analysis contained in the Final EIR and the Staff Report disclosed the potential land use compatibility conflicts of the project. For these reasons, in part, the Planning Commission determined that the necessary findings for issuance of a CUP could not be made because the project would be detrimental to the health, safety and welfare of the public and the community. The Planning Commission also denied the project based on empirical and quantifiable evidence related to noise impacts, other traffic impacts, as well as General Plan and Ordinance inconsistencies. The Planning Commission held three hearings on this item on December 11, 2014, January 8, 2015, and February 5, 2015. The proceedings were televised and recorded and are available in their entirety online. The complete Staff report, staff presentations, supplemental materials and correspondence are made available to the Planning Commission are also available online. The online link to this information is <http://www.slocounty.ca.gov/planning/meetings.htm>. The Final EIR is available at the County Clerk-Recorder Office and is available online at the link provided above.*

*While some information presented by the applicant or the public may offer differing perspectives of the issues from that presented by Staff, the information presented to the Planning Commission by Staff was accurate and internally consistent. Staff analysis in the Staff report and the information presented at the hearings was reviewed to ensure accuracy.*

**Appellant – 2:** (February 17, 2015 Appeal Letter) The findings amounted to unsubstantiated conjecture and are based on inaccuracies and misunderstandings about the project.

**Staff Response – 2:** *It is the Department's position that the findings were in fact based on substantive evidence and were accurate. The Findings, as contained in Exhibit A of the Planning Commission Staff report were, in part, based on the following:*

1. *Consistency with the County General Plan.*
2. *Consistency with the Land Use Ordinance.*

3. Information as contained in the Final EIR.
4. Information as provided by the applicant for the proposed project.

The reasons for denial are discussed in detail in Exhibit A of the Planning Commission Staff report. Information as provided by the applicant for the proposed project was evaluated against the County General Plan and Land Use Ordinance, and evaluated in the environmental impact analysis as contained in the Final EIR. The Planning Commission also considered all public testimony received at each hearing prior to its decision.

**Appellant – 3:** (February 17, 2015 Appeal Letter) The Planning Commission erred by not considering the importance of this aggregate resource to the region as required by state law.

**Staff Response – 3:** *It is the County's position that the Planning Commission did consider the importance of aggregate to the region as whole even though it was not required to do so by law. As noted above, detailed information regarding existing permitted and unpermitted mine operations within the County, Surface Mining and Reclamation Act, SMGB designations, and State Geologist Special Report 215 was presented to the Planning Commission.*

*Specifically, on January 8, 2015, the Planning Commission was provided a PowerPoint presentation from County Counsel regarding the Surface Mining and Reclamation Act and State Mining and Geology Board's authority to designate lands as of regionally or statewide significance based on known mineral resources. This discussion begins at video recording time 4:12:37 at the link provided above. Moreover, the presentation by County Counsel also emphasized the importance of aggregate to the region and the state, as specified in Surface Mining and Reclamation Act. This discussion begins at video time 4:18:16. County Counsel also reaffirmed that if the SMGB were to designate the area as regionally significant (as it recently did and will become effective on July 1, 2015), the ability to appeal the decision to the SMGB does not override local land use authority or its decision, it only allows the SMGB to review the County's decision for substantial evidence and remand the decision back to the local agency for further consideration. This discussion begins at video recording time 4:22:31. The record has demonstrated that the Planning Commission considered importance of the subject mineral deposit and its importance to the area and the region, even though the subject area was not yet designated as regionally significant and has yet to become effective as regionally significant. (See also County Counsel discussion at 4:29:00.) Staff also provided a presentation on the proposed project site and its designation by the SMGB and State Geologist Special Report 215. This presentation begins at video recording time 4:41:30. As discussed in detail above under Planning Commission Decision for Denial, the proposed project would not produce PCC / AC grade aggregate, thus it would not address the identified shortfall of PCC / AC grade aggregate described in SR 215. As such, the Planning Commission in its decision to deny the project considered the importance of aggregate to the region and balanced those needs against the environmental impacts that would occur, the significant public testimony that was provided, the findings necessary to issue a CUP, the overriding considerations necessary to approve the project, and the availability of aggregate resources in the region at existing mines.*

*Moreover, the Planning Commission's deliberations demonstrate that it considered the resource as if it were already designated as "regionally significant" although it was not required to do so, and thus acted consistent with what the legal requirements would have been if the designated were in place at the time of action. As noted above, when considering a mine project in an area designated as regionally significant, the law requires that a Lead Agency's decision is in "accordance with the Lead Agency's mineral resource management policies" and, "in balancing mineral values against alternative land uses, considers the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction" (PRC §2763(a)).*

**Appellant – 4:** (February 17, 2015 Appeal Letter) The Planning Commission did not consider other findings specific to mineral resources, which alter the traditional CUP findings for projects such as this.

**Staff Response – 4:** *The statement that the Planning Commission did not consider other findings specific to mineral resources, which alter the traditional CUP findings is unclear; there is no authority for the idea that the Planning Commission could ignore or change the required findings for issuance of a CUP simply because this is a mine or because it is a mine in an area considered for designation by the SMGB. Moreover, in light of the fact that the area has recently been designated as regionally significant SMGB since the February 5, 2015 Planning Commission hearing (and has yet to become effective), it is the Department's position that the Planning Commission was not required to make special findings for mineral resources at that time. However, as noted above in Staff Response 3, the Planning Commission did consider the importance of aggregate to the area and the region in light of the potential for designation as "regionally significant". The findings made by the Planning Commission are included in Exhibit A of the Planning Commission Staff report (Attachment 2) and these same findings are also carried forward for consideration by the Board of Supervisors (Attachment 1).*

**Staff Response to Subsequent Appeal Information Dated April 9, 2015**

As noted above, subsequent to the receipt of the original appeal letter, the appellant submitted additional appeal arguments with supporting information on April 9, 2015 (Attachment 4). The appellant raises various concerns and primarily challenges the Findings for Denial as contained in Exhibit A of the Planning Commission Staff Report. Staff responses to these concerns are provided further below.

**Appellant – 5:** (Page 1 of April 9, 2015 Letter) The appellant asserts that Denial Finding 1(a), which states that the project should be denied because it is not consistent with Conservation and Open Space Element (COSE) Goal VR-1, VR-2 and Policy 4.1, is flawed because there is no requirement that a project be consistent with these policies. Rather, the County Code requires decision makers to find that the project is consistent with the Land Use Element not the COSE.

**Staff Response – 5:** *The intent of Section 22.62.020(C)(4)(A) is to ensure that the proposed conditional use is consistent with the land use designation in which the proposed use would be located; it is not intended to restrict the decision making body from making findings of consistency with the General Plan. The County's discretion is not limited to making findings that only pertain to the Land Use Element. The County is also required to make findings relative to a project's consistency with applicable provisions of the General Plan, which is the overarching planning document for the County. The proposed project includes land uses that are specifically guided by goals and policies listed in Chapter 6 of the COSE, thus the project is subject to a consistency evaluation against those applicable policies and other applicable policies of the General Plan. One of the means by which the County can implement the General Plan is through implementation of the Land Use Ordinance. The Land Use Ordinance is the primary tool used by San Luis Obispo County to carry out the goals, objectives, and policies of the San Luis Obispo County General Plan, including the COSE. The Board of Supervisors intends that the Land Use Ordinance be consistent with the General Plan, and that any land use or development approved in compliance with the Land Use Ordinance will also be consistent with the General Plan (See Section 22.01.020 of the Land Use Ordinance).*

**Appellant – 6:** (Page 2 of April 9, 2015 Letter) The appellant interprets the intent of the EX1 Combining Designation and the efforts that lead to the establishment of the EX1 Combining Designation in 1991. The appellant states that when the EX1 was established in 1991, the staff report, in part, found that the EX-1 will provide for development that is compatible with the character of the general area because it requires that land uses which are subject to discretionary permits not adversely affect mineral resources. As such, in denying the project, the Planning Commission found that the project was not consistent with the character of the neighborhood and community, which is at odds with the EX1 Combining Designation.

**Staff Response – 6:** *The appellant is correct in that the EX1 designation, as discussed in the 1991 staff report, found that the EX-1 will provide for development that is compatible with the character of the general area because it requires that land uses which are subject to discretionary permits not adversely affect mineral resources (also see Section 22.14.050 of the Land Use Ordinance). However, this is not applicable to this project. This finding is intended to discourage the County from approving new, incompatible land uses (such as housing) near mineral resource extraction operations so as not to hinder mineral resource extraction operations. This finding is not intended to entitle or prioritize new mine projects in EX1 that are located near established/existing incompatible land uses or communities, nor does it guarantee or ensure that new mine projects within EX1 would be consistent or compatible with existing land uses or nearby communities. New discretionary mine projects regardless of location are required to be evaluated based on the project characteristics proposed at that time and the existing conditions at that time. The project was evaluated accordingly as documented in the record.*

**Appellant – 7:** (Page 5 of April 9, 2015 Letter) The appellant states that Denial Finding 1(a) does not accurately portray the existing visual setting of the project site and area, and asserts that the project would not be visible from Highway 58. The EIR does not account for the existing Santa Margarita Quarry, which is also visible from Highway 58. As such, the proposed project would be consistent with the visual character of the area. In addition, the EIR for the Santa Margarita Quarry expansion did not have a significant and unavoidable impact associated with visual impacts. Lastly, the project was found to be inconsistent with COSE Policy VR 4.1, yet it is not designated as a scenic corridor nor is it likely to occur in the near future.

**Staff Response – 7:** *The baseline for evaluation of visual impacts is the existing setting on the project site at the time of preparation of the EIR (i.e. release of the Notice of Preparation), as required by CEQA. While there is an existing mine in the vicinity, the project level visual analysis is focused on the project site per requirements of CEQA. Cumulative visual impacts account for other projects that may occur in the vicinity. The EIR evaluated both of these scenarios as contained Section 4.1 Aesthetics and Visual Resources of the EIR. As contained therein, a visual simulation was performed relative to impacts on the project site and it was concluded that the project would be highly visible from Highway 58. The project*

site existing setting contains steeply sloped oak woodland and chaparral covered hillsides adjacent to the Salinas River corridor which is highly scenic and recognized for its scenic value in the COSE. The project would result in major excavation of this natural setting and result in an exposed rock face. Thus, the project would significantly alter the existing natural visual character of the project site. No mitigation measures are available to minimize this impact because the site would be significantly altered. Implementation of the Reclamation Plan would not occur for decades and thus impacts were determined to be significant and unavoidable.

Moreover, the Santa Margarita Quarry is an existing mine operation and the baseline for purposes of its expansion EIR is significantly different from the applicant's proposed new mine. The baseline for CEQA purposes for that mine is existing operations because that is what existed at the time of preparation of the EIR for the requested expansion. It is important to note that the recently approved expansion of the Santa Margarita Quarry would minimize the existing exposed face of the mine by quarrying that area (removing that rock face so that it is no longer visible from SR 58) and thus the EIR for that project produced a different conclusion. The EIR for the Las Pilitas Quarry did consider the cumulative visual impacts of the vicinity and project area, not just the project site, and concluded that the project would result in a cumulatively considerable impact. Lastly, it is correct that Highway 58 is not designated as a scenic corridor. Policy VR 4.1 of the COSE indicates that SR 58 could become a scenic corridor because it is on the identified list of roads to be designated as such. The significant and unavoidable impacts associated with the proposed quarry and the excavated slopes that will be visible to travelers along SR 58 would not be consistent with the identification of SR 58 for designation as a scenic corridor.

**Appellant – 8:** (Page 7 of April 9, 2015 Letter) The appellant states that Denial Finding 1(b) and the balancing test for approval of the project does not apply because COSE Goals MN-1 and Policy MN1.1 only apply to areas having scenic open space or habitat value and the project site does not contain these attributes. If the balancing test does apply, the record shows that the need for these mineral resources outweighs these issues per Special Report 215, which states that the region will run out of aggregate by 2026. The Findings do not explain why the host of impacts of the project do not outweigh the need for aggregate as demonstrated by Special Report 215. The Findings do not state that the SMGB designated the area as regionally significant and the appropriate findings as required by law were not made.

**Staff Response – 8:** COSE Goals MN-1 and Policy MN1.1 do apply to the project site because the site contains high scenic and open space value. As such, the County is required to balance the need for a new mine against the impacts associated with a new mine, not just relative to said goals and policies but against the required Findings for approval and whether the project would adversely affect the health, safety and welfare of the public and community. Special Report 215 does conclude that PCC and AC grade aggregate reserves may be depleted by 2026 if new PCC and AC grade aggregate resources do not become available. However, the proposed new mine would not produce PCC and AC grade aggregate and thus would not contribute to meeting the regional shortfall identified in Special Report 215. Thus, as stated in the Planning Commission Staff Report and Findings, there were not sufficient economic, legal, social, technological, or other benefits, including region-wide or statewide benefits available to override the significant and unavoidable impacts of the project.

The Planning Commission was informed by County Counsel and Staff that the SMGB is in the process of considering and potentially designating the subject project site, and surrounding mineral deposits, as a "regionally significant". At the time of the hearing, the SMGB had not designated the project site or the area as "regionally significant". However, since the February 5, 2015 Planning Commission hearing, the SMGB has completed the regulatory process required to designate certain aggregate resources in the San Luis Obispo-Santa Barbara Production Consumption Region, including the subject EX-1 Combining Designation area, as being of "regional significance". This designation was approved by the Office of Administrative Law on March 30, 2015 and the designation will become effective on July 1, 2015. Designation of the area as being of "regional significance" does not entitle or guarantee approval of a mineral resource project. When considering a mine project in an area designated as regionally significant, the law requires that a Lead Agency's decision is in "accordance with the Lead Agency's mineral resource management policies" and, "in balancing mineral values against alternative land uses, considers the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction" (PRC §2763(a)). Although the designation was not approved nor in effect at the time of the Planning Commission decision, nor is it yet in effect at the date of this appeal hearing, the Planning Commission was informed of and did consider the importance of the resource to the area and the region and balanced that decision against other considerations. Moreover, in their consideration, the Planning Commission was informed that the two major suppliers of PCC and AC grade aggregate (Hanson and Rocky Canyon located in the same EX1 designated area as the proposed project), as well as Sisquoc Rock Plant (located in the San Luis Obispo / Santa Barbara County production/consumption region), when combined, have the potential to meet future demand of the San Luis Obispo / Santa Barbara County production/consumption region with existing permitted reserves and unpermitted

aggregate resources available at these locations<sup>3</sup>. Moreover, SR 215 recognized that while certain resources are not yet permitted within the Rocky Canyon and Sisquoc Specific Plans areas, the Rocky Canyon and Sisquoc Specific Plans “represent significant additions” to mineral resource policies because they include “the two largest PCC-grade aggregate resources in the San Luis Obispo / Santa Barbara County production/consumption region”.

**Appellant – 9:** (Page 9 of April 9, 2015 Letter) The appellant states that Denial Finding 1(c), which states the project would not be consistent with the Noise Element, is not consistent with the findings of the EIR as related to truck traffic noise, operational noise, and blasting noise and vibration. Relative to traffic noise, the truck trips generated by the project would not be “new” but would be re-routed from the Santa Margarita Quarry. The appellant generally disagrees with the noise impact analysis of the EIR.

**Staff Response – 9:** Section 4.8 Noise of the EIR concluded that the project would result in significant and unavoidable impacts related to truck traffic noise, operational noise, blasting noise, and cumulative truck traffic noise. Denial Finding 1(c) was, in part, based on the findings of the EIR. The appellant’s comments primarily relate to the conclusions of the EIR.

Denial Finding 1(c), which states that the project would be inconsistent with Noise Element Goals and Policies because sensitive receptors will be subject to the harmful and annoying effects of exposure to excessive noise, is not limited to truck traffic. Denial Finding 1(c) goes on to state that the project would be inconsistent with the Noise Element because the project would also expose sensitive receptors to noise from operation activities and blasting noise and vibration that exceed County standards. These conclusions are based on Section 4.8 Noise of the EIR. The EIR concluded that traffic noise, particularly since it would be associated with heavy truck traffic, may be perceived as significant because of a 1.9 decibel increase. It is important to note that these estimates are based on an average of 273 truck trips, and it is possible that the project could generate more truck trips and thus expose these sensitive receptors to noise that exceeds County thresholds. Moreover, the project, as stated in the EIR in Table 4.8-8, would expose nearby sensitive receptors to noise levels that exceed County standards by as much as 7 decibels. In regards to blasting noise, as shown in Table 4.8-10 of the EIR, the project would expose nearby sensitive receptors to noise levels up to 80.1 decibels, which exceed County standards by 30 decibels. The EIR concluded that all these impacts are significant and unavoidable and thus the County concluded that the project was inconsistent with the certain goals and policies of the Noise Element. The Santa Margarita Quarry (Hanson) is in a located such that topography and distance to sensitive receptors attenuates blasting noise.

The proposed project would generate on average 273 truck trips per day. These trips are new and along a new haul route distinctly different from the haul route of the Santa Margarita Quarry. Moreover, the proposed project would produce a different product when compared to the Santa Margarita Quarry, that is, the Santa Margarita Quarry produces primarily PCC and AC grade (concrete) aggregate while the proposed project would not. Therefore, when comparing trips related to PCC and AC grade aggregate, the proposed project would not offset all truck trips. Both the Santa Margarita Quarry and the proposed project would produce the same products relative to other non-Concrete Grade Aggregate and thus may offset some truck trips due to competition; however, as mentioned the Santa Margarita Quarry uses a different haul route that does not send all of its truck trips through Santa Margarita as the proposed project would, and thus the truck trips would be considered new because of the newly proposed haul route.

**Appellant – 10:** (Page 12 of April 9, 2015 Letter) The appellant states that Denial Finding 1(d), which states that denial of this project does not preclude or set precedence for future mining projects within the EX1 Combining Designation area, does in fact preclude and sets precedence for future mining projects in the subject EX1 Combining Designation area. The appellant asserts that the cited land use compatibility issues are not unique to this project and would occur with any mine project within the EX1 area because the only access to the mineral resources would be via Highway 58 or 229.

**Staff Response – 10:** The fact that new mine projects may be located in the EX1 does not guarantee or ensure that such projects would be consistent or compatible with existing land uses or nearby communities. Each project requires independent evaluation. The proposed project was evaluated independently based on the currently proposed project characteristics. The Planning Commission denied the project, in part, based on the significant and unavoidable impacts of the project, and the land use compatibility conflicts that would occur, and because there is a lack of evidence of sufficient economic, social, technological or regional benefit for overriding considerations, as discussed previously. The project is located in close proximity to existing sensitive receptors and, importantly, has proposed a haul route that would travel through an existing community and result in land use compatibility conflicts. Even without existing homes in the EX1 area, the proposed project would require significant numbers of heavy trucks to travel through the historic town of Santa Margarita, which would conflict with the character of that community.

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<sup>3</sup> Aggregate reserves are aggregate deposits that have been determined to be acceptable for commercial use and have been issued a permit to mine. Aggregate resources include reserves as well as all potentially usable aggregate materials that may be mined in the future, but for which no mining permit has been granted.

*The subject EX1 area is approximately 8,000 acres and 10 miles in length and 3 miles in width and the proposed project is approximately 41 acres. There are several potential locations for a new mine that would be buffered from existing sensitive receptors, and for which new access could be developed so as to avoid impacts to the community of Santa Margarita. Various alternatives to the project were analyzed, including alternative routes, alternative locations and expansion of existing quarries. Alternative routes and locations may reduce impacts in certain issue areas and may result in greater impacts in other issue areas. These alternatives are provided for consideration of the decision makers. In regards to expanding existing mines, the EIR stated that "expanding the permitted operations at the existing quarries may be capable of meeting regional needs and may contribute in the long run towards correcting the production consumption imbalance for aggregate resources." The Santa Margarita Quarry recently received an approval for expansion and the Rocky Canyon Quarry has a 10-phase specific plan that has identified specific expansion areas. Moreover, the Sisqoc Quarry is also located in the San Luis Obispo / Santa Barbara County production/consumption and has the potential to provide additional aggregate via implementation of subsequent phases of the adopted specific plan for that project site.*

**Appellant – 11:** (Page 13 of April 9, 2015 Letter) The appellant states that Denial Finding 2(a), which states that the project is inconsistent with the County Noise Ordinance, is inconsistent with the conclusions of the EIR. The appellant generally disagrees with the noise impact analysis of the EIR and asserts that the County's Noise Ordinance cannot be applied to truck traffic on the state highway.

**Staff Response – 11:** *Both the County Noise Ordinance and CEQA require evaluation of all sources of noise that will result from a discretionary project. Section 4.8 Noise of the EIR concluded that the project would result in significant and unavoidable impacts related to truck traffic noise, operational noise, blasting noise, and cumulative truck traffic noise. Denial Finding 2(a) was based on these conclusions of the EIR. The project would result in noise levels that would exceed County standards and thus was determined to be inconsistent with the County Noise Ordinance. The appellant's argument that the Vehicle Code preempts the County from considering noise from truck traffic would require the County to ignore its Noise Ordinance and noise thresholds when evaluating whether to approve or deny this discretionary project. The law likely does not require such a result. Please refer to Staff Response 9 regarding specific details of the noise analysis and conclusions of the EIR.*

**Appellant – 12:** (Page 16 of April 9, 2015 Letter) The appellant disagrees with Denial Finding 3(a) and refers to previous comments related Finding 1(c) and 2(a).

**Staff Response – 12:** *See Staff Response 9 and 11.*

**Appellant – 13:** (Page 16 of April 9, 2015 Letter) The appellant disagrees with Denial Finding 3(b) and argues that the statement that the "project would result in land use compatibility conflicts between truck traffic, bicyclists, pedestrians and school children" is at odds with the conclusions of the EIR and is not supported by evidence in the record. The appellant asserts that the project will displace some of the existing truck trips and most of the truck trips will not be new, thus there is no evidence in the record to support this finding.

**Staff Response – 13:** *Denial Finding 3(b) is, in part, informed by the analysis of the EIR, the impacts identified throughout the EIR, and Section 4.14 Land Use of the EIR. Finding 3(b) is also based on staff analysis relative to applicable goals and policies of the General Plan and the Santa Margarita Design Plan. It is the County's position that the project would result in land use compatibility conflicts for the reasons discussed in the Planning Commission Staff Report and the discussion provided under Land Use Compatibility and Environmental Review above. The applicant proposed mitigation measures would contribute to reducing land use compatibility conflicts for impacts to school children; however, due to the number of truck trips that would occur on a daily basis, the project would still result in land use conflicts with school children, pedestrians and bicyclists. In addition, it is unclear how effective the proposed mitigation measures would be in avoiding conflicts, such as a two-way radio provided to the school crossing guards that may never be used.*

*The proposed project would generate on average 273 truck trips per day. These trips are new, unlike the truck trips analyzed for the Cold Canyon Landfill Expansion project, and along a new haul route distinctly different from the haul route of the Santa Margarita Quarry. The proposed project would produce a different product when compared to the Santa Margarita Quarry, that is, the Santa Margarita Quarry produces PCC and AC grade (concrete) aggregate while the proposed project would not. Therefore, when comparing trips related to PCC and AC grade aggregate, the proposed project would not offset all truck trips. Both the Santa Margarita Quarry and the proposed project would produce the same products relative to other non-Concrete Grade Aggregate and thus may offset some truck trips due to competition; however, as mentioned the Santa Margarita Quarry uses a different haul route that does not send all truck trips through Santa Margarita as the proposed project does, and thus the truck trips would be considered new because of the newly proposed haul route next to the residential neighborhood along Estrada Avenue and through downtown Santa Margarita.*



*The Santa Margarita Quarry does not use Estrada Avenue and most of the truck trips of that quarry travel northbound on El Camino and avoid downtown Santa Margarita. It should also be noted that the Santa Margarita Quarry haul route along El Camino, in both the northbound and southbound direction, has Class II bike lane shoulders.*

**Appellant – 14:** (Page 22 of April 9, 2015 Letter) The appellant disagrees with Denial Finding 3(c) and that public concerns regarding potential health risks are not consistent with the findings of the EIR. The appellant notes that the project could be beneficial to air quality because it would reduce haul trip lengths.

**Staff Response – 14:** *Finding 3(c) is related to public concerns and comments received by the County as related to the health risks associated with truck traffic. Finding 3(c) is not based on the conclusions of the EIR nor is it intended to be. It is understood that that air quality impacts as disclosed in the EIR would be significant but mitigable or less than significant. Please see paragraph two of Staff Response 13 as it relates to haul trips and offsets. In addition, the applicant's arguments that the proposed project would redistribute trucks from the Santa Margarita Quarry and result in little or no net increase in truck traffic is at odds with its claims that its project will also decrease haul distances for aggregate currently coming in from out of the county. The latter argument would increase trucks in the vicinity of the project site and result in new potential health risks.*

**Appellant – 15:** (Page 23 of April 9, 2015 Letter) The appellant notes that Finding 4 includes the statement that the project would also be incompatible with the community of Santa Margarita and notes that it differs from the required Findings in Section 22.62.060(c). It is noted that no other project includes a land use compatibility analysis so far from the project site.

**Staff Response – 15:** *Findings in Section 22.62.060(c) are the minimum required findings that must be made prior to approval or denial of a conditional use permit. The County at its discretion may add to or make additional findings for issuance of a conditional use permit. The Community of Santa Margarita was included in the finding because the project has proposed a haul route that would travel through the community and result land use compatibility conflicts as discussed herein, in the Planning Commission Staff Report and the EIR. Substantial public testimony at the Planning Commission reaffirmed the land use incompatibility concerns along the haul route within the community of Santa Margarita. Santa Margarita is the closest community to the proposed project site and is immediately impacted by the truck traffic that would result from this project.*

**Appellant – 16:** (Page 23 of April 9, 2015 Letter) The appellant disagrees with Finding 4(a), which states the project would result in visual impacts and refers to appellant responses related to Findings 1(a).

**Staff Response – 16:** *Please see Staff Response 7.*

**Appellant – 17:** (Page 23 of April 9, 2015 Letter) The appellant disagrees with Finding 4(b), which states that the project would expose sensitive receptors to harmful and annoying noise and refers to appellant responses related to Findings 1(c) and 2(a).

**Staff Response – 17:** *Please see Staff Response 9 and 11.*

**Appellant – 18:** (Page 23 of April 9, 2015 Letter) The appellant disagrees with Finding 4(c), which states that the project will pass through the residential neighborhood along Estrada Avenue and through downtown Santa Margarita along SR 58 which would compromise the small town, rural character of this historic community. The issue is the location of Highway 58, not the project itself. The appellant notes that current business operations are dependent on large trucks. The appellant states that the County has no authority to regulate truck traffic along Highway 58.

**Staff Response – 18:** *Please see Staff Response 3, 8, 9, 10 and 13. The selected haul route was proposed by the applicant. As discussed in the EIR, alternative options are available for consideration of the decision makers. The proposed haul route would utilize Highway 58, which also travels adjacent to a neighborhood and the Community of Santa Margarita. The appellant correctly notes that the County does not have the authority to regulate vehicles on Highway 58. However, the County has the authority to regulate land uses within its jurisdiction. The proposed project was subject to CEQA and evaluated accordingly. The project was also evaluated against the County's General Plan and Land Use Ordinance. Based on the proposed project characteristics, the project would result in various environmental impacts as discussed throughout the EIR and would be inconsistent with various goal and policies of the General Plan, and would be inconsistent with the Land Use Ordinance. The County with its discretion may, in part, deny a project if certain findings cannot be made and if the project would adversely impact the health, safety and welfare of the public or community. It should also be noted that that CalTrans estimates that 3% of vehicle traffic through Santa Margarita is truck traffic (approximately 216 truck trips). The project as proposed would more than double Caltrans estimates and thus would*



*represent a large increase in truck traffic for the community of Santa Margarita.*

**Appellant – 19:** (Page 24 of April 9, 2015 Letter) The appellant states that Finding 5(a), which states project would result in land use compatibility conflicts between truck traffic, bicyclists, pedestrians and school children, replicates Finding 3(b) and refers to previous responses.

**Staff Response – 19:** *Please see Staff Response 13.*

**Appellant – 20:** (Page 25 of April 9, 2015 Letter) The appellant states that Finding 5(b), which states the project should be denied because the uncertainty regarding needed traffic improvements, is misleading and incorrect. Certain traffic impacts would be less than significant. Road wear was also considered in the EIR and impacts to road wear was determined to be less than significant. Improvements would require the coordination of the County, Caltrans, and Union Pacific. It is asserted that the Board of Supervisors should presume needed improvements would be installed when needed.

**Staff Response – 20:** *Finding 5(b) is consistent with the evaluation as contained in Section 4.11 Transportation and Circulation of EIR. It is understood that impacts related to certain roadway segments would be less than significant or significant but mitigable. It is also understood that road wear impacts would be less than significant; this issue is not raised in Finding 5(b). Impacts related to cumulative traffic conditions were determined to be significant and unavoidable because needed improvements are in the jurisdiction of Caltrans and may require land acquisitions and coordination with Union Pacific Railroad, thus implementation cannot be assured by the County and impacts would be significant and unavoidable. This is consistent with the conclusions of the EIR.*

**Appellant – 21:** (Page 27 of April 9, 2015 Letter) The appellant summarizes previous comments and states that the Final EIR is at odds with the denial findings of the Planning Commission.

**Staff Response – 21:** *Please see previous staff responses.*

**Appellant – 22:** (Page 27 of April 9, 2015 Letter) The appellant states that Denial Finding 7 does not list or consider the economic, legal, social, technological or other benefits of the project and assumes that the impacts of the project are not enough to overcome the significant and unavoidable impacts of the project.

**Staff Response – 22:** *Please see previous staff responses. The Planning Commission, in part, based their denial upon the land use compatibility conflicts that would accompany the project because those conflicts would be detrimental to the health, safety and welfare of the public and community. For these reasons, in part, the Planning Commission determined that the necessary findings for issuance of a CUP could not be made. The Planning Commission also denied the project based on empirical and quantifiable evidence related to noise impacts, other traffic impacts, as well as General Plan and Ordinance inconsistencies.*

*Special Report 215 does conclude that PCC and AC grade aggregate reserves may be depleted by 2026 if new PCC and AC grade aggregate resources do not become available. However, the proposed new mine would not produce PCC and AC grade aggregate and thus would not contribute to meeting the regional shortfall identified in Special Report 215. Thus, as stated in the Planning Commission Staff Report and Findings, there was no empirical economic, legal, social, technological, or other benefit, including region-wide or statewide benefit available to override the significant and unavoidable impacts of the project. Moreover, in their consideration, the Planning Commission was informed that the two major suppliers of PCC and AC grade aggregate (Hanson and Rocky Canyon located in the same EX1 designated area as the proposed project), as well as Sisquoc Rock Plant (located in the San Luis Obispo / Santa Barbara County production/consumption region), when combined, have the potential to meet future demand of the San Luis Obispo / Santa Barbara County production/consumption region with existing permitted reserves and unpermitted aggregate resources available at these locations. Moreover, SR 215 recognized that while certain resources are not yet permitted within the Rocky Canyon and Sisquoc Specific Plans areas, the Rocky Canyon and Sisquoc Specific Plans “represent significant additions” to mineral resource policies because they include “the two largest PCC-grade aggregate resources in the San Luis Obispo / Santa Barbara County production/consumption region”.*

## **OTHER AGENCY INVOLVEMENT**

The project was referred to: Public Works, Environmental Health, Building Division, Air Pollution Control District, CalFire, Santa Margarita Fire, Caltrans, Regional Water Quality Control Board, California Department of Fish and Wildlife, Department of Conservation Office of Mine Reclamation, United States Fish and Wildlife Service, and the Santa Margarita Advisory Council.

## **FINANCIAL CONSIDERATIONS**

This appeal was processed using the Planning Department's budget and the appeal fee paid by the appellant.

## **RESULTS**

Affirming the Planning Commission's decision to deny the project would result in denial of the proposed Las Pilitas Quarry. The project would not be permitted to move forward as currently proposed.

This is consistent with the County's goal of promoting livable and prosperous communities.

## **ATTACHMENTS**

1. Attachment 1 Board of Supervisors Resolution and Findings
2. Attachment 2 Planning Commission Staff Report
3. Attachment 3 Appeal Letter
4. Attachment 4 Supplemental Appeal Letter
5. Attachment 5 Clerk Filed EIR
6. Attachment 6 March 23, 2011 Planning and Building Department Letter to Applicant
7. Attachment 7 Special Report 215
8. Attachment 8 Graphics
9. Attachment 9 Staff PowerPoints
10. Attachment 10 Applicant PowerPoints
11. Attachment 11 Public PowerPoints
12. Attachment 12 Additional Letters
  - a. Las Pilitas Resources (April 17, 2015)
  - b. Margarita Proud (April 27, 2015)
  - c. Law Office of Babak Naficy (April 29, 2015)